

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J. SMITH, aka TAHEE RASHEED,

No. C 11-5767 YGR (PR)

Petitioner,

**ORDER DISMISSING PETITION
WITH LEAVE TO AMEND**

v.

C. GIPSON,

Respondent.


Petitioner seeks federal habeas relief from his state convictions. Petitioner, however, did not use this Court's habeas petition form, and the one he has submitted is not comprehensible. Accordingly, the petition is DISMISSED WITH LEAVE TO AMEND. A blank habeas corpus form will be mailed to petitioner. Petitioner shall file a petition using such form within 30 days from the date this order is filed. The petition must include the caption and civil case number used in this order (11-5767 YGR (PR)) and the words AMENDED PETITION on the first page. Because an amended petition completely replaces the previous petition, petitioner must include in his first amended petition all the claims he wishes to present. Petitioner may not incorporate material from the prior petition by reference. Failure to file an amended petition in accordance with this order will result in

1 dismissal of this action with prejudice for failure to prosecute under Federal Rule of Civil
2 Procedure 41(b).

3 Petitioner's motion to proceed *in forma pauperis* (Docket No. 9) is GRANTED. His
4 motion for a preliminary injunction (Docket No. 10) is DENIED without prejudice.
5 Petitioner may refile such motion when he files his amended petition. The Clerk shall
6 terminate Docket Nos. 9 and 10.

7 **IT IS SO ORDERED.**

8 DATED: October 23, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
For the Northern District of California